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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ART UNIT: 3732	
EXAMINER: Matthew M. Nelson	**CORRECTIONS**
APPLICANT: James K. Garland	**TO**
SERIAL NO.: 10/589,386	**APPEAL**
FILED: 06-07-2007	**BRIEF**
FOR: DENTAL MODEL TRAY AND ASSOCIATED ARTICULATOR	
DOCKET NO.: Tear Away Wall	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notification of Non-Compliant Appeal Brief, Applicant respectfully submits herewith corrections to the previously filed Appeal Brief. The corrections have been made on pages 2-4 of the Appeal Brief, and the corrected pages 2-4 enclosed herewith should be substituted for the same pages in the Appeal Brief as originally filed.

DATED this 21th day of July, 2009.

Respectfully submitted,

Terry M. Crellin

Terry M. Crellin
Registration No. 25,579

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia on this date: JULY 21, 2009.
Terry M. Crellin, Registered Representative

Terry M. Crellin — JULY 21, 2009
Signature of Registered Representative — Date of Signature

APPLICANT'S APPEAL BRIEF

Real Party in Interest

The real party in interest with respect to Appellant's appeal is the Applicant, James K. Garland.

Related Appeals and Interferences

There are no related appeals and interferences known to Applicant.

Status of Claims

Claims 1-8 stand rejected.

Status of Amendments

The claims were amended in response to the first Office Action, and that amendment has been entered. The claims were amended a second time in response to the Final Rejection, and the second amendment was not entered.

Summary of the Claimed Subject Matter

The numbers in the following summary are the reference numbers used in the drawings of the patent application. Subject matter of claims 1-8 includes dental trays 12 and associated articulation members 13 and 14 which are used in pairs. The two trays 12 are identical. Each tray 12 comprises a rigid bottom wall 16. A continuous side wall 17 extends upwardly from the perimeter of the bottom wall 16 to form an open-topped cavity which is adapted to receive the dental casting material. (Page 5, lines 12-21) The trays 12 are formed integrally from a rigid polymeric material. The lower edge or perimeter of the side wall 17 is attached to the perimeter of the bottom wall 16 by a thin connector member 19 that is formed integrally with both the

lower edge or perimeter of the side wall 17 and the perimeter of the bottom wall 16. The thin connector member 19 can be easily ripped or torn apart so that the side wall 17 can readily be removed from the base wall 16 when such is desired. The thin connector member 19 is preferably formed as a plurality of spaced apart tabs 19 that are integrally formed with the side wall 17 and bottom wall 16. The tabs 19 are made relatively thin so that they are frangible and can easily be broken. The purpose of the frangible tabs 19 is to allow the side wall 17 to be ripped or torn from the bottom wall 16 after the dental casting material has hardened in the tray 12. (Page 5, line 22 to page 6, line 1)

Once the dental casting material has hardened in the trays, the side wall 17 is ripped from the bottom wall 16 to leave the cast stone mounted on the bottom wall 16, and the side wall 17 that has been removed from the cast stone and the bottom wall is then discarded. The stone which includes the replication of the teeth of a person can then be handled in conventional fashion to form dies of the tooth or teeth for which a prosthetic is to be prepared. The dies are formed in conventional fashion by sawing down through the casting from the top of the replicated teeth to near the bottom wall 16 which is still securely secured to the bottom of the dental model. (Page 6, lines 7-10 and page 6, line 24 to page 7, line 6)

An articulation system is provided so that occlusion of the upper and lower teeth of the replication can be achieved as is well known in the art. A preferred articulation system comprises an ell-shaped member 21 that extends from the back side edge of the bottom wall 16 of the tray 12. For this purpose, a back wall 22 is preferably formed integrally with the back side edge of the bottom wall 16 and the ell-shaped member, with the back wall 22 extending upwardly substantially perpendicular to the broad upper face of the bottom wall 16. This back

wall 22 provides structure to which the ell-shaped member 21 is firmly attached. The ell-shaped member 21 could be simply attached to the back side edge of the bottom wall 16, but it is preferable to provide the rigid, integral back wall 22 connected to both the bottom wall 16 and the ell-shaped member 21. (Page 7, line 8-22)

Grounds of Rejection to be Reviewed on Appeal

The issues requiring resolution are:

1. Whether rejected Claims 1-4 are unpatentable under 35 U.S.C. § 102 as being anticipated by Honstein et al. (2004/0166466).

2. Whether rejected Claim 5 is unpatentable under 35 U.S.C. § 103 as being obvious from Honstein et al. (2004/0166466).

3. Whether rejected Claims 6 and 7 are unpatentable under 35 U.S.C. § 103 as being obvious from Honstein et al. (2004/0166466) in view of Huffman (2002/0102514).

4. Whether rejected Claim 8 is unpatentable under 35 U.S.C. § 103 as being obvious from the teachings of Honstein et al. (2004/0166466) in view of Huffman (2002/0102514) and further in view of McPherson (223,157).

Argument

Issue No. 1 - Whether rejected Claims 1-4 are unpatentable under 35 U.S.C. § 102 as being anticipated by Honstein et al. (2004/0166466).

For a proper rejection of a claim or claims under 35 U.S.C. § 102, all of the elements of the claim or claims under rejection must be shown explicitly in the cited reference. It will be shown later herein that the examiner and the examiner's supervisor (applicant has come to the